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Attorneys for Joseph V. Womack, Trustee

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

In re

**JOHN HENRY SCHNEIDER,**

Debtor.

Case No. 14-61357

**JOSEPH V. WOMACK, AS CHAPTER  
7 TRUSTEE FOR THE BANKRUPTCY  
ESTATE OF JOHN HENRY  
SCHNEIDER,**

Plaintiff,

v.

**JOHN HENRY SCHNEIDER and  
MICHELLE R. SCHNEIDER;**

Defendants.

Adversary No. 17-21

**TRUSTEE'S RESPONSE TO  
DEFENDANTS MOTION FOR LEAVE  
TO ASSERT COUNTERCLAIMS  
AGAINST TRUSTEE AND ESTATE**

**NOTICE OF HEARING**

Date: Tuesday, August 15, 2017

Time: 9:30 a.m.

Location: Bighorn Courtroom

5th Floor, Room 5503

2601 Second Avenue North

Billings, MT

Joseph V. Womack, Chapter 7 Trustee for the Bankruptcy Estate of John Henry Schneider (“Trustee”), through counsel, files the following response to Defendants Motion for Leave to Assert Counterclaims Against Trustee and Estate (Doc. 8).

The *Barton* Doctrine serves the important function of allowing the Judge to thwart frivolous litigation against Trustees, such as Defendants’ counterclaims, at the earliest possible stage. However, Trustee agrees with Defendants that leave of this Court is not necessary for Defendants to pursue counterclaims against the Trustee in this Court. Pursuant to 9<sup>th</sup> Circuit precedent, leave is only required if Defendants were to attempt to bring an action against the Trustee in another court.

While Trustee would prefer to have this Court act as a gatekeeper regarding Defendants’ frivolous counterclaims, such action is not appropriate pursuant to binding 9<sup>th</sup> Circuit precedent.

DATED this 2nd day of August, 2017.

GOETZ, BALDWIN & GEDDES, P.C.

By: /s/Trent M. Gardner

Trent M. Gardner/Jeffrey J. Tierney  
Attorneys for Trustee Joseph V. Womack

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury that on August 2, 2017, a copy of the foregoing pleading was served (i) by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court's ECF transmission facilities and/or (ii) by mail on the following parties: none

*/s/Trent M. Gardner*

Trent M. Gardner  
Attorneys for Trustee Joseph V.  
Womack